



**UNITED STATES DEPARTMENT OF COMMERCE**  
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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/123,620	07/28/98	ELFORD H	HEBVR-5

HM32/0828

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EXAMINER	
FONDA, K	
ART UNIT	PAPER NUMBER
1623	18

DATE MAILED: 08/28/00

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

*See attached sheets.*

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Appellant submitted an amendment to the claims on 07-06-00 in order to address the examiner's statement in the letter of 06-06-00 that the brief did not contain arguments of the appellant with respect to each of the issues presented for review in 37 CFR 1.192(c)(6), and the basis therefor, with citations of the authorities, statutes, and parts of the record relied on as required by 37 CFR 1.192(c)(8). The amendment has been entered, with the exception that no change has been made to the second line below the formula in claim 1; see the discussion of the 35 U.S.C. § 112, second paragraph, rejections below. Appellant's attempt to resolve the issues pointed out by the examiner appears to have been bona fide, but is not sufficient.

The brief still does not contain, for each rejection under 35 U.S.C. § 112, first paragraph, an argument which specifies errors in the rejection and how the first paragraph of 35 U.S.C. § 112 is complied with, including how the specification and drawings, if any, describe the subject matter defined by each of the rejected claims. See the paragraph bridging pages 2-3 of the final rejection mailed 09-13-99. Appellant's response with the amendment of 07-06-00 is that this rejection should have been obviated by the amendment of 11-18-99. Indeed, this rejection would have been obviated thereby, if the amendment had been entered. However, appellant was clearly advised in the advisory

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action of 12-27-99 that the amendment in question would not be entered due to new issues, new matter, and failure to simplify issues on appeal. Thus the 35 U.S.C. § 112, first paragraph, rejection remains at issue. Appellant should present a new amendment which is the same as the unentered amendment to the specification of 11-18-99.

The brief does not contain, for each rejection under 35 U.S.C. § 112, second paragraph, an argument which specifies the errors in the rejection and how the claims particularly point out and distinctly claim the subject matter which appellant regards as the invention. See the first paragraph on page 4 of the final rejection mailed 09-13-99, which states that the word "and" is problematic in lines 8 and 9. The amendment of 07-06-00 calls for replacement of "and" in the second line beneath the formula after "drugs", with --or an--. This change could not be made because the word "drugs" does not appear in the second line beneath the formula in claim 1. Furthermore, appellant appears to be attempting to address only one occurrence of the word "and", rather than "and" on both lines 8 and 9. The examiner suggests amending "and pharmaceutically-acceptable acid-addition salt and acylated phenol derivatives thereof" as follows:

[and] or a pharmaceutically-acceptable acid-addition salt  
[and] or acylated phenol [derivatives] derivative thereof.

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Appellant is advised that the 35 U.S.C. § 112, second paragraph, rejection in the second full paragraph on page 4 of the final rejection mailed 09-13-99 has been overcome by the amendment of 07-06-00.

APPELLANT IS REQUIRED TO COMPLY WITH PROVISIONS OF 37 CFR 1.192(C). Each issue should be treated under a separate heading.

To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 1.192(c) within the longest of any of the following TIME PERIODS: (1) ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication; (2) within the time period for reply to the action from which appeal has been taken; or (3) within two months from the date of the notice of appeal under 37 CFR 1.191. Extensions of these time periods may be granted under 37 CFR 1.136.

Papers relating to this application may be submitted to Technology Center 1600 by facsimile transmission. The number of the fax machine for official papers in Technology Center 1600 is (703) 308-4556. Any document submitted by facsimile transmission will be considered an official communication unless the cover sheet clearly indicates that it is an informal communication.

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INTERNET INFORMATION: Secure and confidential access to patent application status information is now available; see <http://pto-ebc.uspto.gov> for more information. Also, <http://www.uspto.gov/web/offices/ac/comp/fin/clonedefault.htm> may be used to pay patent maintenance fees, pay non-filing application fees, and maintain USPTO deposit accounts.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kathleen Kahler Fonda, at telephone number (703) 308-1620. Examiner Fonda can generally be reached Tuesday through Friday, and on alternating Mondays, from 7:30 a.m. until 5:00 p.m. If the Examiner cannot be reached, questions may be addressed to Supervisory Patent Examiner Gary Geist at (703) 308-1701. Any inquiry of a general nature or relating to the status of this application should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-1235.



Kathleen Kahler Fonda, Ph.D.  
Primary Examiner  
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